

THE HON'BLE SRI JUSTICE C.V.RAMULU

WRIT PETITION No.26493 of 1997

DATED: 19.04.2007

Between:

P.Srihari Rao.

.. Petitioner

And

The A.P. State Agro Industries
Development Corporation Limited,
Rep. by its Vice-Chairman and
Managing Director.

.. Respondent

THE HONOURABLE SRI JUSTICE C.V.RAMULU

WRIT PETITION No.26493 of 1997

ORDER:

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This Writ Petition is filed seeking mandamus declaring the proceedings issued by the respondent vide Proceedings No. C/SD/HYD/91, dated 01.09.1997, No.Pers/AM(P) III/JM(DC)/40/95-96, dated 09.09.1997, and No.AC/SDR/RM(AC)/HYD/3/96, dated 08.10.1997, ordering recovery of the amount from the salary of the petitioner as well as from the amounts of Voluntary Retirement Scheme or under the benefits of G.O.Ms.No.282, Agriculture and Cooperation (FP.I) Department dated 08.07.1997 as illegal and arbitrary.

2. The case of the petitioner is that he retired from service as a Regional Manager in Andhra Pradesh Agro Industries Development Corporation at Hyderabad, on voluntary basis as per the Voluntary Retirement Scheme introduced by the Corporation. It is his contention that his job was only to supervise the work of the Marketing Officers and the Marketing Officers were authorized to sell fertilizers, pesticides etc. to the dealers as per the terms and conditions of the Cooperative Societies and Agricultural Department.

It is asserted by the petitioner that the respondent Corporation authorized the Marketing Officers to give free credit to the dealers to the extent of Rs.50,000/- by issuing Circulars in the year 1982 as well

as on 11.06.1994, and also that if any dealer is given cash of one lakh rupees, the Marketing Officers were permitted to give pesticides to the extent of three lakhs rupees under the respondent Corporation Credit policy. Despite his several reminders to the respondent Corporation about the credit facilities extended to the dealers and other organizations and the defaulted parties in not paying the amounts, and requesting the respondent to initiate proceedings under Section 52(A) of the Revenue Recovery Act, the respondent has not taken any action for recovering the amounts due from the dealers, and instead, foisted a case against him, which is illegal and also contrary to the principles of natural justice.

Now, the grievance of the petitioner is that the impugned proceedings have been issued against him stating that the Management has ordered for recovery of certain amounts from his salary. The petitioner contends that the impugned proceedings were issued without putting him on notice or without conducting an enquiry into the matter or without determining what exactly the amount to which he is liable, therefore the impugned orders are liable to be set aside.

3. On behalf of the respondent, a detailed counter affidavit has been filed denying the allegations made by the petitioner and it is asserted that all the supplies made by the petitioner against cash and carry basis were to be made against adequate security, but he did not do so. The petitioner did not even collect the property particulars or initiate any legal action against the customers, who were due to the Corporation. However, in spite of giving ample opportunity to him all these years, the petitioner did not realize the understandings, therefore, the impugned orders were passed to recover the amounts from the petitioner, since, those amounts became irrecoverable.

4. Heard the learned counsel for the petitioner and Sri B.Thimothi, learned counsel for the respondents.

5. It is brought to the notice of this Court that when the retirement benefits of the petitioner were not paid, earlier he filed a writ petition, and in that writ petition, this Court directed the respondent-Management to release all the amounts due to the petitioner. According to the learned counsel for the petitioner, the petitioner already received the said amounts.

6. Learned counsel for the petitioner stated that various suits have been laid by the Corporation for recovery of the amounts from the parties against each account and as such, the petitioner was also made as one of the defendants, and that in many of the suits, the parties against whom, the fertilizers were supplied either paid the amounts or the suits were dismissed. Even against the petitioner, except one account, which is the subject matter of O.S.No.357 of 1999, all other suits have been dismissed or compromised.

7. Be that as it may, on perusal of the entire material available on record and on hearing both the counsel, it is an admitted fact that no enquiry was conducted and no notice was issued to the petitioner before passing of the impugned proceedings. Therefore, the impugned proceedings suffer from gross violation of principles of natural justice. As such, the same is liable to be set aside on this count alone, and as such, the impugned proceedings are liable to be set aside. However, this will not preclude the respondent from recovering the money after the suits are disposed of as per law.

8. With the above observations, the Writ Petition is allowed. No

order as to costs.

(C.V.RAMULU,J)

19.04.2007

v v